

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GARY RICHARD LAWMAN,

Plaintiff,

v.

CITY AND COUNTY OF SAN
FRANCISCO, et al.,

Defendants.

Case No. [15-cv-01202-DMR](#)

**ORDER ON DEFENDANTS'
ADMINISTRATIVE MOTION FOR
LEAVE TO FILE SECOND MOTION
FOR SUMMARY JUDGMENT AND
DISCOVERY LETTER**

Re: Dkt. Nos. 103, 104

The court has reviewed the parties' submissions regarding Defendants' administrative motion for leave to file a second motion for summary judgment on the question of probable cause to arrest Plaintiff for trespassing. [Docket Nos. 103, 105.] The court does not typically permit parties to file multiple Rule 56 motions. Defendants have not persuaded the court that they should be given such an opportunity here. Defendants' previous motion for summary judgment on this point was unsuccessful because they provided a discovery response that was improper under the Federal Rules of Civil Procedure. [See Docket No. 80 at 9.] Moreover, it is too close to trial to permit a second motion. The parties' pretrial submissions are due on May 6, 2016. Even if Defendants were permitted to file a second Rule 56 motion today, there is inadequate time for briefing, oral argument, and the court's preparation of an order on the motion before the pretrial process is in full swing. Accordingly, Defendants' administrative motion is denied.

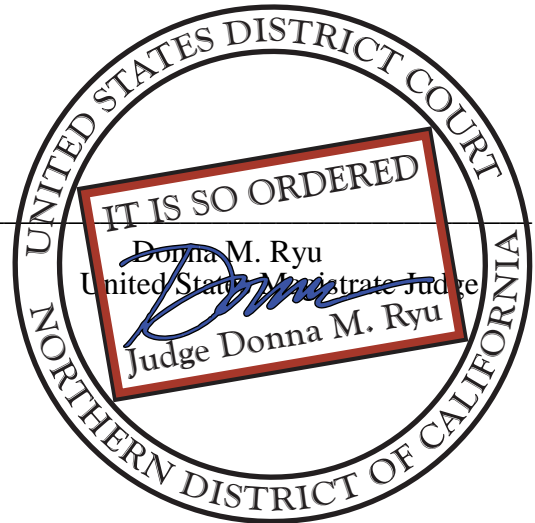
The court has also reviewed the parties March 24, 2016 joint discovery letter. [Docket No. 104.] The court denies Defendants' request to strike the Dusenbury report. Plaintiff has shown substantial justification for his late disclosure and the late disclosure is harmless. See Fed. R. Civ. P. 37(c)(1). Plaintiff's counsel notified defense counsel of his intent to serve a late expert disclosure on March 15, 2016, just one week after the March 8, 2016 deadline to disclose experts.

Further, there is over one month left to conduct expert discovery.

The court orders Plaintiff to serve a supplemental report by Dusenbury by April 8, 2016, which will mitigate any prejudice to Defendants caused by the late disclosure. In his supplemental report, Dusenbury may not add new opinions, and must state his opinions and set forth the bases for those opinions more fully than as set forth in the “summary” opinions contained in his initial report. After April 8, 2016, Dusenbury may further supplement his report only to the extent the supplementation is based on documents received from Defendants after April 8, 2016. Any rebuttal report is due two weeks after service of the supplemental Dusenbury report. Defendants may determine the order of depositions of the police practices experts.

IT IS SO ORDERED.

Dated: March 31, 2016



United States District Court
Northern District of California